

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3701 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DHARMESH KANTILAL PATADIYA

Versus

STATE OF GUJARAT

Appearance:

MR YS LAKHANI for Petitioners

H.F.MEHTA, A.P.P. for Respondent No. 1

SERVED for Respondent No. 2

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 28/10/96

ORAL JUDGEMENT

Rule.

2. I have heard the learned advocate for the petitioner and the Additional Public Prosecutor for the State at length. Though the respondent No.2 was duly served, she has not put her appearance.As I have heard the matter on merits, I proceed to dispose of the same

finally.

3. The present petition is filed by the accused in Criminal Case No.123 of 1996 on the file of Chief Judicial Magistrate, Jamnagar. The respondent No.2 has filed this private complaint against the present petitioners alleging that they had treated her with cruelty to such an extent that there was inducement to even commit an attempt to commit a suicide. If the averments made in the complaint would be seen, then it would be quite clear that as per her claim, she has been treated with cruelty by the present petitioners at Anjar as well as Gandhidham, Kachha. Thus, the alleged offence having been taken place within the jurisdiction of the Chief Judicial Magistrate of Jamnagar. Therefore, the learned Chief Judicial Magistrate was not justified in directing to hold an inquiry u/S.156 (3) of the Code of Criminal Procedure by the police of Jamnagar, because the said order passed by the learned Chief Judicial Magistrate is an order passed by the Chief Judicial Magistrate who has no jurisdiction to entertain the complaint. Consequently, if any inquiry is carried out in pursuance of the said order of the Chief Judicial Magistrate, the same would be also a nullity. Therefore, in the circumstances, I hold that the present petition will have to be allowed by directing the Chief Judicial Magistrate to exercise the powers under Section 201 of the Code of Criminal Procedure. He should issue a notice to respondent No.2 and he should return the complaint to her for representation to appropriate court.

4. Thus, I allow the present petition. The order passed by the learned Chief Judicial Magistrate, Jamnagar, dated 24-5-96 in Criminal Case No.123 of 1996 is set aside and the learned Chief Judicial Magistrate, Jamnagar is directed to pass the necessary order in pursuance of Section 201 of the Code of Criminal Procedure as well as the observations made in this order after issuing notice to respondent No.2.

Rule is made absolute accordingly.

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